
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 72 Session of
2021

INTRODUCED BY KEARNEY, CAPPELLETTI, COSTA, FONTANA, HUGHES,
KANE, MUTH AND L. WILLIAMS, SEPTEMBER 2, 2021

REFERRED TO EDUCATION, SEPTEMBER 2, 2021

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in educational tax credits, further
6 providing for definitions and for qualification and
7 application by organizations.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definitions of "educational improvement
11 organization," "opportunity scholarship organization," "pre-
12 kindergarten scholarship organization" and "scholarship
13 organization" in section 2002-B of the act of March 10, 1949
14 (P.L.30, No.14), known as the Public School Code of 1949, are
15 amended to read:

16 Section 2002-B. Definitions.

17 The following words and phrases when used in this article
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 * * *

1 "Educational improvement organization." A nonprofit entity
2 which:

3 (1) is exempt from Federal taxation under section 501(c)
4 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
5 26 U.S.C. § 1 et seq.); and

6 (2) contributes at least [80%] 95% of its annual
7 receipts as grants to a public school, a chartered school as
8 defined in section 1376.1, or a private school approved under
9 section 1376, for innovative educational programs.

10 For purposes of this definition, a nonprofit entity
11 "contributes" its annual cash receipts when it expends or
12 otherwise irrevocably encumbers those funds for expenditure
13 during the then-current fiscal year of the nonprofit entity or
14 during the next succeeding fiscal year of the nonprofit entity.
15 A nonprofit entity shall include a school district foundation,
16 public school foundation, charter school foundation or cyber
17 charter school foundation.

18 * * *

19 "Opportunity scholarship organization." A nonprofit entity
20 which:

21 (1) Is exempt from Federal taxation under section 501(c)
22 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
23 26 U.S.C. § 1 et seq.); and

24 (2) Contributes at least [80%] 95% of the entity's
25 annual cash receipts to an opportunity scholarship program.

26 For the purposes of this definition, a nonprofit entity
27 contributes the entity's cash receipts to an opportunity
28 scholarship program when the entity expends or otherwise
29 irrevocably encumbers those funds for distribution during the
30 then-current fiscal year of the nonprofit entity or during the

1 next succeeding fiscal year of the nonprofit entity.

2 * * *

3 "Pre-kindergarten scholarship organization." A nonprofit
4 entity which:

5 (1) is exempt from Federal taxation under section 501(c)
6 (3) of the Internal Revenue Code of 1986 or is operated as a
7 separate segregated fund by a scholarship organization that
8 has been qualified under section 2003-B; and

9 (2) contributes at least [80%] 95% of its annual cash
10 receipts to a pre-kindergarten scholarship program by
11 expending or otherwise irrevocably encumbering those funds
12 for distribution during the then-current fiscal year of the
13 organization or during the next succeeding fiscal year of the
14 organization.

15 * * *

16 "Scholarship organization." A nonprofit entity which:

17 (1) is exempt from Federal taxation under section 501(c)
18 (3) of the Internal Revenue Code of 1986; and

19 (2) contributes at least [80%] 95% of its annual cash
20 receipts to a scholarship program.

21 For purposes of this definition, a nonprofit entity
22 "contributes" its annual cash receipts to a scholarship program
23 when it expends or otherwise irrevocably encumbers those funds
24 for distribution during the then-current fiscal year of the
25 nonprofit entity or during the next succeeding fiscal year of
26 the nonprofit entity.

27 * * *

28 Section 2. Section 2003-B(c), (d) and (d.1) of the act are
29 amended to read:

30 Section 2003-B. Qualification and application by organizations.

1 * * *

2 (c) Scholarship organizations and pre-kindergarten
3 scholarship organizations.--A scholarship organization or pre-
4 kindergarten scholarship organization must certify to the
5 department that the organization is eligible to participate in
6 the educational improvement tax credit program established under
7 this article and must agree to annually report the following
8 information to the department by November 1 of each year:

9 (1) (i) The number of scholarships awarded during the
10 immediately preceding school year to eligible pre-
11 kindergarten students.

12 (ii) The total and average amounts of the
13 scholarships awarded during the immediately preceding
14 school year to eligible pre-kindergarten students.

15 (iii) The number of scholarships awarded during the
16 immediately preceding school year to eligible students in
17 grades kindergarten through eight.

18 (iv) The total and average amounts of the
19 scholarships awarded during the immediately preceding
20 school year to eligible students in grades kindergarten
21 through eight.

22 (v) The number of scholarships awarded during the
23 immediately preceding school year to eligible students in
24 grades nine through 12.

25 (vi) The total and average amounts of the
26 scholarships awarded during the immediately preceding
27 school year to eligible students in grades nine through
28 12.

29 (vii) Where the scholarship organization or pre-
30 kindergarten scholarship organization collects

1 information on a county-by-county basis, the total number
2 and the total amount of scholarships awarded during the
3 immediately preceding school year to residents of each
4 county in which the scholarship organization or pre-
5 kindergarten scholarship organization awarded
6 scholarships.

7 (viii) The total number of scholarship applications
8 processed and the amounts of any application fees
9 charged, either per scholarship application or in the
10 aggregate through a third-party processor.

11 (ix) The organization's Federal Form 990 or other
12 Federal form indicating the tax status of the
13 organization for Federal tax purposes, if any, and a full
14 and complete copy of a compilation, review or audit of
15 the organization's financial statements conducted by a
16 certified public accounting firm.

17 (x) The average household income of eligible
18 students in grades kindergarten through eight who
19 received scholarships in the immediately preceding school
20 year.

21 (xi) The average household income of eligible
22 students in grades nine through 12 who received
23 scholarships in the immediately preceding school year.

24 (xii) Data as determined by the department in
25 conjunction with the Department of Education tracking the
26 academic success of eligible students in grades
27 kindergarten through eight who received scholarships in
28 the immediately preceding school year.

29 (xiii) Data as determined by the department in
30 conjunction with the Department of Education tracking the

1 academic success of eligible students in grades nine
2 through 12 who received scholarships in the immediately
3 preceding school year.

4 (xiv) Any other information deemed appropriate by
5 the department.

6 (2) The information required under paragraph (1) shall
7 be submitted on a form provided by the department. No later
8 than September 1 of each year, the department shall annually
9 distribute such sample forms, together with the forms on
10 which the reports are required to be made, to each listed
11 scholarship organization and pre-kindergarten scholarship
12 organization.

13 (3) [The department may not require any other
14 information to be provided by scholarship organizations or
15 pre-kindergarten scholarship organizations, except as
16 expressly authorized in this article.] A scholarship
17 organization or a pre-kindergarten scholarship organization
18 is prohibited from charging an application fee to an eligible
19 student applying for a scholarship.

20 (d) Educational improvement organization.--

21 (1) An application submitted by an educational
22 improvement organization must describe its proposed
23 innovative educational program or programs in a form
24 prescribed by the department. The department shall consult
25 with the Department of Education as necessary. The department
26 shall review and approve or disapprove the application. In
27 order to be eligible to participate in the educational
28 improvement tax credit program established under this
29 article, an educational improvement organization must agree
30 to annually report the following information to the

1 department by November 1 of each year:

2 (i) The name of the innovative educational program
3 or programs and the total amount of the grant or grants
4 made to those programs during the immediately preceding
5 school year.

6 (ii) A description of how each grant was utilized
7 during the immediately preceding school year and a
8 description of any demonstrated or expected innovative
9 educational improvements.

10 (iii) The names of the public schools and school
11 districts where innovative educational programs that
12 received grants during the immediately preceding school
13 year were implemented.

14 (iv) Where the educational improvement organization
15 collects information on a county-by-county basis, the
16 total number and the total amount of grants made during
17 the immediately preceding school year for programs at
18 public schools in each county in which the educational
19 improvement organization made grants.

20 (v) The organization's Federal Form 990 or other
21 Federal form indicating the tax status of the
22 organization for Federal tax purposes, if any, and a full
23 and complete copy of a compilation, review or audit of
24 the organization's financial statements conducted by a
25 certified public accounting firm.

26 (vi) Any other information deemed appropriate by the
27 department.

28 (2) The information required under paragraph (1) shall
29 be submitted on a form provided by the department. No later
30 than September 1 of each year, the department shall annually

1 distribute such sample forms, together with the forms on
2 which the reports are required to be made, to each listed
3 educational improvement organization.

4 [(3) The department may not require any other
5 information to be provided by educational improvement
6 organizations, except as expressly authorized in this
7 article.]

8 (d.1) Opportunity scholarship organizations.--

9 (1) An opportunity scholarship organization must enhance
10 the educational opportunities available to students in this
11 Commonwealth by providing opportunity scholarships to
12 eligible students who reside within the attendance boundary
13 of low-achieving schools to attend schools which are not low-
14 achieving schools and which are not public schools within the
15 eligible student's school district of residence. By February
16 15 of each year, an opportunity scholarship organization must
17 certify to the department that the organization is eligible
18 to participate in the opportunity scholarship tax credit
19 program.

20 (2) An opportunity scholarship organization must agree
21 to report the following information on a form provided by the
22 department by November 1 of each year:

23 (i) The total number of applications for opportunity
24 scholarships received during the immediately preceding
25 school year from eligible students in grades kindergarten
26 through eight.

27 (ii) The number of opportunity scholarships awarded
28 during the immediately preceding school year to eligible
29 students in grades kindergarten through eight.

30 (iii) The total and average amounts of the

1 opportunity scholarships awarded during the immediately
2 preceding school year to eligible students in grades
3 kindergarten through eight.

4 (iv) The total number of applications for
5 opportunity scholarships received during the immediately
6 preceding school year from eligible students in grades
7 nine through 12.

8 (v) The number of opportunity scholarships awarded
9 during the immediately preceding school year to eligible
10 students in grades nine through 12.

11 (vi) The total and average amounts of the
12 opportunity scholarships awarded during the immediately
13 preceding school year to eligible students in grades nine
14 through 12.

15 (vii) Where the opportunity scholarship organization
16 collects information on a county-by-county basis, the
17 total number and the total amount of opportunity
18 scholarships awarded during the immediately preceding
19 school year to residents of each county in which the
20 opportunity scholarship organization awarded opportunity
21 scholarships.

22 (viii) The number of opportunity scholarships
23 awarded during the immediately preceding school year to
24 applicants with a household income that does not exceed
25 185% of the Federal poverty level.

26 (ix) The total and average amounts of opportunity
27 scholarships awarded during the immediately preceding
28 school year to applicants with a household income that
29 does not exceed 185% of the Federal poverty level.

30 (x) The number of opportunity scholarships awarded

1 during the immediately preceding school year to
2 applicants with a household income that does not exceed
3 185% of the Federal poverty level and who reside within a
4 first class school district.

5 (xi) The total and average amounts of opportunity
6 scholarships awarded during the immediately preceding
7 school year to applicants with a household income that
8 does not exceed 185% of the Federal poverty level and who
9 reside within a first class school district.

10 (xii) The number of opportunity scholarships awarded
11 during the immediately preceding school year to
12 applicants with a household income that does not exceed
13 185% of the Federal poverty level and who reside within a
14 school district that was designated as a financial
15 recovery school district under Article VI-A at the time
16 of the award.

17 (xiii) The total and average amounts of opportunity
18 scholarships awarded during the immediately preceding
19 school year to applicants with a household income that
20 does not exceed 185% of the Federal poverty level and who
21 reside within a school district that was designated as a
22 financial recovery school district under Article VI-A at
23 the time of the award.

24 (xiv) The total number of opportunity scholarship
25 applications processed and the amounts of any application
26 fees charged either per opportunity scholarship
27 application or in the aggregate through a third-party
28 processor.

29 (xv) The opportunity scholarship organization's
30 Federal Form 990 or other Federal form indicating the tax

1 status of the opportunity scholarship organization for
2 Federal tax purposes, if any, and a full and complete
3 copy of a compilation, review or audit of the opportunity
4 scholarship organization's financial statements conducted
5 by a certified public accounting firm.

6 (xvi) The average household income of eligible
7 students in grades kindergarten through eight who
8 received scholarships in the immediately preceding school
9 year.

10 (xvii) The average household income of eligible
11 students in grades nine through 12 who received
12 scholarships in the immediately preceding school year.

13 (xviii) The number of eligible students in grades
14 kindergarten through eight who received scholarships in
15 the immediately preceding school year and attended a low-
16 achieving school within the past five years.

17 (xiv) The number of eligible students in grades nine
18 through 12 who received scholarships in the immediately
19 preceding school year and attended a low-achieving school
20 within the past five years.

21 (xv) Data as determined by the department in
22 conjunction with the Department of Education tracking the
23 academic success of eligible students in grades
24 kindergarten through eight who received scholarships in
25 the immediately preceding school year.

26 (xvi) Data as determined by the department in
27 conjunction with the Department of Education tracking the
28 academic success of eligible students in grades nine
29 through twelve who received scholarships in the
30 immediately preceding school year.

1 (xvii) Any other information deemed appropriate by
2 the department.

3 (3) No later than September 1 of each year, the
4 department shall annually distribute such sample forms,
5 together with the forms on which the reports are required to
6 be made, to each listed opportunity scholarship organization.

7 (4) [The department may not require other information to
8 be provided by opportunity scholarship organizations, except
9 as expressly authorized in this article.] An opportunity
10 scholarship organization is prohibited from charging an
11 application fee to an eligible student applying for a
12 scholarship.

13 * * *

14 Section 3. This act shall take effect in 60 days.